

basis, in accordance with the Fair Housing Act and implementing regulations; and

(viii) Adequate legal remedies for the PHA and residents, in the event of the other entity's failure to perform in accordance with the agreement.

§ 906.8 Purchaser eligibility and selection.

Standards and procedures for eligibility and selection of the initial purchasers of individual dwellings shall be consistent with the following provisions:

(a) *Applications.* Persons who are interested in purchase must submit applications for that specific purpose, and those applications shall be handled separately from applications for other PHA programs. For vacant units, applications shall be dated as received by the PHA and, subject to eligibility and preference factors, selection shall be made in the order of receipt. Application for homeownership shall not affect an applicant's place on any other PHA waiting list.

(b) *Eligibility threshold.* Subject to any additional eligibility and preference standards that are required or permitted under this section, a homeownership plan may provide for the eligibility of residents of public housing owned or leased by the seller PHA (including Turnkey III homebuyers who may elect to terminate their existing Turnkey III homebuyer agreements in favor of purchase under the Section 5(h) homeownership plan) and residents of other housing who are receiving housing assistance under Section 8 of the Act, under an ACC administered by the seller PHA, provided that the resident has been in lawful occupancy for a minimum period specified in the plan (not less than 30 days prior to conveyance of title to the dwelling to be purchased). For residents of other housing who are receiving housing assistance under Section 8, the minimum occupancy requirement may be satisfied in the unit for which the family is receiving Section 8 assistance or the public housing unit. If the family is to meet part or all of the minimum occupancy requirement in the public housing unit, the Section 8 assistance must be terminated before the family moves into the

public housing unit. Public housing units are ineligible for Section 8 certificate and voucher assistance as long as they remain under ACC as public housing.

(c) *Applicants who do not meet minimum residency requirement for eligibility.*

(1) A homeownership plan, at PHA discretion, may also permit eligibility for applicants who do not meet the minimum residency requirement of paragraph (b) of this section (30 days or more, as prescribed by the homeownership plan) at the time of application, provided that their selection is conditioned upon completion of the minimum residency requirement prior to conveyance of title. (A plan may thus allow satisfaction of the threshold requirements for eligibility by:

(i) Existing public housing or Section 8 residents with less than the minimum period of residency;

(ii) Families who are already on the PHA's waiting lists; and

(iii) Other low-income families who are neither public housing nor Section 8 residents at the time of application or selection.)

(2) Applicants who are not already public housing residents, however, must also satisfy the requirements for admission to such housing.

(d) *Compliance with lease obligations.* Eligibility shall be limited to residents who have been current in all of their lease obligations (in the case of Turnkey III homebuyers, obligations under their Turnkey III homebuyer agreements) over a period of not less than six months prior to conveyance of title (or, if so provided by the homeownership plan, such lesser period as has elapsed since the beginning of public housing or Section 8 tenure), including, but not limited to, payment of rents (or homebuyer's monthly payments) and other charges, and reporting of all income that is pertinent to determination of rental charges (or homebuyer's monthly payments). At the PHA's discretion, the homeownership plan may allow a resident to remedy underreporting of income, provided that proper reporting of income would not have resulted in ineligibility for admission to public housing or for Section 8 assistance, by payment of the resulting underpayment for rent (or homebuyer's

monthly payments) prior to conveyance of title to the homeownership dwelling, either in a lump-sum or in installments over a reasonable period. Alternatively, the plan may permit payment within a reasonable period after conveyance of title, under an agreement secured by a mortgage on the property.

(e) *Affordability standard.* Eligibility shall be limited to residents who are capable of assuming the financial obligations of homeownership, under minimum income standards for affordability, taking into account the unavailability of public housing operating subsidies and modernization funds after conveyance of the property by the PHA. A homeownership plan may, however, take account of any available subsidy from other sources (e.g., in connection with a plan for cooperative ownership, assistance under Section 8 of the Act, if available and authorized by the Section 8 regulations). Under this affordability standard, an applicant must meet the following requirements:

(1) On an average monthly estimate, the amount of the applicant's payments for mortgage principal and interest, plus insurance, real estate taxes, utilities, maintenance and other regularly recurring homeownership costs (such as condominium, cooperative, or other homeownership association fees) will not exceed the sum of:

(i) 35 percent of the applicant's adjusted income as defined in 24 CFR Part 913; and

(ii) Any subsidy that will be available for such payments.

(2) The applicant can pay any amounts required for closing, such as a downpayment (if any) and closing costs chargeable to the purchaser, in accordance with the homeownership plan.

(f) *Option to restrict eligibility.* A homeownership plan may, at the PHA's discretion, restrict eligibility to one or more residency-based categories (e.g., for occupied units, eligibility may be restricted to the existing residents of the units to be sold; for vacant units, eligibility may be restricted to public housing residents only, or to public housing residents plus any one or more of the other residency-based categories that may be established under para-

graphs (b) and (c) of this section), as may be reasonable in view of the number of units to be offered for sale and the estimated number of eligible applicants in various categories, provided that the residency-based preference requirements mandated by paragraph (g) of this section are observed.

(g) *Residency-based preferences.* For occupied units, a preference shall be given to the existing residents of each of the dwellings to be sold. For vacant units (including units which are voluntarily vacated), a preference shall be given to residents of other public housing units owned or leased by the seller PHA (over any other residency-based categories that may be established by the homeownership plan for Section 8 residents and any categories of non-resident applicants).

(h) *Self sufficiency preference.* For vacant units, a further preference shall be given to those applicants who have completed self-sufficiency and job training programs, as identified in the homeownership plan, or who meet equivalent standards of economic self-sufficiency, such as actual employment experience, as specified in the homeownership plan.

(i) *Other eligibility or preference standards.* If consistent with the other provisions of this section, a homeownership plan may include any other standards for eligibility or preference, or both, at the discretion of the PHA, that are not contrary to law.

(Approved by the Office of Management and Budget under control number 2577-0201)

§ 906.9 Counseling, training, and technical assistance.

Appropriate counseling shall be provided to prospective and actual purchasers, as necessary for each stage of implementation of the homeownership plan. Particular attention must be given to the terms of purchase and financing, along with the other financial and maintenance responsibilities of homeownership. In addition, where applicable, appropriate training and technical assistance shall be provided to any entity (such as an RMC, other resident organization, or a cooperative or condominium entity) that has responsibilities for carrying out the plan.